

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.3.3
Eastern Division**

ABC Corporation I, et al.

Plaintiff,

v.

Case No.:

1:20-cv-04806

Honorable Thomas M.

Durkin

The Partnership and Unincorporated Associations
Identified on Schedule "A", et al.

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Thursday, October 7, 2021:

MINUTE entry before the Honorable Thomas M. Durkin: Defendants Gaodesang–US, Gyroor, and Fengchi–US move to dismiss. They argue first that Plaintiffs have only conclusorily alleged that Defendants are related through the entity Gyroor–US and that each allegedly related defendant has sold an allegedly infringing product, as opposed to different products not mentioned in the complaint. But in support of their motion to amend the complaint to add these defendants, Plaintiffs submitted a declaration with exhibits analyzing the Amazon Standard Identification Numbers for the relevant products, thus making a plausible showing that these defendants have sold products that infringe Plaintiffs' patents. See R. [227]. Defendants' first argument is rejected for that reason. Defendants next argue their products are based on valid third–party design patents and therefore cannot infringe the Patents–in–Suit. As the Court held in an order yesterday, the problem with this argument is that the "existence of one's own patent does not constitute a defense to infringement of someone else's patent." R. [443] at 1 (quoting Bio–Tech. Gen. Corp. v. Genentech, Inc., 80 F.3d 1553, 1559 (Fed. Cir. 1996)). Furthermore, to the extent Defendants' patents are relevant to whether they have infringed Plaintiffs' patents, that is an affirmative defense that should not be decided on the pleadings. "Indeed, the U.S. Court of Appeals for the Federal Circuit has cautioned against construing claim language to resolve, at the pleading stage, what are effectively non–infringement arguments." Pressure Specialist, Inc. v. Next Gen Mfg., Inc., 2018 WL 572834, at *3 (N.D. Ill. Jan. 24, 2018)). Therefore, defendants#039; motions to dismiss [364] [365] and [366] are denied. Mailed notice. (ecw,)

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